

Combating Human Trafficking:



A Call to Regulate the Recruitment Industry

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The Story of Saartjie Baartman



Contributing Factors in Southern Africa

- ❑ Poverty
- ❑ Unemployment
- ❑ HIV/AIDS
- ❑ Conflict
- ❑ Low levels of education
- ❑ Natural disasters
- ❑ Family and social pressures
- ❑ Natural disasters
- ❑ Corrupt governments



Patterns of Human Trafficking - IOM

- ❑ **False promises:**
 - Work
 - Study
 - Marriage
- ❑ **Kidnapped**
- ❑ **Done by:**
 - SA-based male refugees – female relatives
 - Long-distance Truckers
 - Business women
 - Tourists
- ❑ **From:**
 - Malawi, Mozambique, Swaziland, Lesotho, Tanzania, Botswana. Private houses



Purposes for Human Trafficking:

- ❑ Sexual Exploitation
- ❑ Forced Labor
- ❑ Slavery
- ❑ Organ removal
- ❑ Drug couriers



Methods to ensnare people - IOM

- ❑ The tactics used to recruit, transport, and exploit victims remain similar.
- ❑ In **most** cases, women and children are lured with promises of employment or educational opportunities abroad.....
- ❑ ..contemporary trafficking relies to a greater extent on deception and false promises.



Methods to ensnare people - Interpol

- ❑ Some victims responded to advertisements in the belief that they would secure a good job in a new country.
- ❑ Others were sold by family members, friends or a family friend into the modern equivalent of slavery.



Methods to recruit people - SALC

- ❑ Traffickers usually make use of advertisements in which they offer work at, e.g. a health club or restaurant (usually in another province)
- ❑ These women's traveling expenses and accommodation costs are provided and on arrival at the place of destination, they are informed that they will also be required to work in the sex industry.



Methods to recruit people - Molo

- The recruitment of teenage girls between 15 and 18 years of age into the sex industry happens through newspaper adverts such as the following:
- *Actors/dancers/singers wanted. Experience not necessary (telephone number provided)*



Ads: SA February newspapers

- **Region: Western Cape**
Classification:
ADULT ENTERTAINMENT
Date: 21/02/2006
MASSEUSES / Escorts required for well established upmarket venue.
(Telephone number provided)
- **Region: KwaZulu-Natal**
Classification: OVERSEAS OPPORTUNITIES
Date: 21/02/2006
PEOPLE needed - various jobs, London, USA, Canada. 100% guaranteed response.
(Telephone number provided)
- **Region: Gauteng**
Classification: PART-TIME
Date: 21/02/2006
R40 000 pm EARNING POTENTIAL. W-ends & nights, classy ladies immed for busy mass studio no sex.
(Cell phone number provided)
- **Region: Gauteng**
Classification: GENERAL
Date: 21/02/2006
MAKE MONEY!!! Blonds and brunettes Req. to accompany execs to Sun City & w/ends.
(Cell phone number provided)



Recommendations - IOM

- ❑ Ratification & implementation of treaties
- ❑ Protection for victims
- ❑ National Task Force – promote consultation
- ❑ Information sharing
- ❑ Reception Centers
- ❑ Regional Cooperation



Recommendations – Molo

- ❑ Establishment & training of specialized police and prosecutorial units.
- ❑ Compensation – victims of human trafficking.
- ❑ Education and information dissemination.
Infrastructures to assist and advise.
- ❑ Register for sexual offenses.



South African Domestic Legislation

- ❑ South African Constitution
- ❑ Common Law – abduction, kidnapping, rape, indecent assault.
- ❑ Sexual Offenses Act – outlawing brothels, procurement of children, detaining female against her will.



South African law reform

□ **Children's Bill**

- Give effect Palermo Protocol,
- Criminalizing trafficking of children.
- Assisting children – Children's Court & care.
- Prohibit behavior that facilitates trafficking:

285. (1) No person, natural or juristic, or a partnership, may—

(a) knowingly lease or sublease or allow any room, house, building or establishment to be used for the purpose of harbouring a child who is a victim of trafficking.

(b) advertise, publish, print, broadcast, distribute or cause the advertisement, publication, printing, broadcast or distribution of information that suggests or alludes to trafficking by any means, including the use of the Internet or other information technology.

(2) Every Internet service provider operating in the Republic must report to the South African Police Service any site on its server that contains information in contravention of subsection (1)



Interventions – SA Police Service

- Information
- Capacity Building and Development
- Victim Support and Integration
- Legislation and Policy Development
- Monitoring and Evaluation
- Liaison and Consultation

- What about prevention?

Interventions – SA Police Service/...

- Minutes - Parliamentary Committee - 24 June 2005
 - “Ms. S. Camerer commented that legislation such as the Child Care Act and the Sexual Offences Bill dealt with issues that surrounded human trafficking. She asked why these could not be used in addressing the problem of human trafficking.”
 - “Mr. Oosthuizen replied that there were legal gaps in between these different Acts and Bills. For example, the recruitment and transportation of victims was not covered in these Acts and Bills. There needed to be specific legislation that dealt with trafficking.”

Learning from efforts to combat money laundering:

- **Convention against Transnational Organized Crime**
 - Article 7
 - A comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions and other bodies particularly susceptible to money laundering within its competence
 - To deter and detect all forms of money laundering, which regime shall emphasize requirements for customer identification
 - Establishment of financial intelligence units



Money laundering/...

- South African law
 - Prevention of Organized Crime Act
 - Financial Intelligence Centre Act
 - The Money Laundering Advisory Council
 - Financial Intelligence Centre
 - Obligations – Accountable Institutions
 - Reporting, confidentiality and Access to Information



What can we learn from efforts to combat money laundering?

- ❑ Both are deceptive in nature
- ❑ Both require introduction to public sphere.
- ❑ Both require proactive approach – focus at point where introduction is made into public sphere.
- ❑ **Lessons:**
 - Limit opportunity to publicize through legal means.
 - Invest in deterring and detecting human trafficking through detection.



Examples of regulation in the world

United Kingdom

□ The Conduct of Employment Agencies and Employment Businesses Regulations

- Notify work-seekers of any charges relating to the employment
- Details in agreement: type of work that the agency will find for the work-seeker, details of the agent's authority and the fees that will be charged for the work
- Obligations in event of employment away,



United States

□ General Business Law – New York

- maximum fees that may be charged to job applicants

□ Private Employment Agency Act – Illinois

- Approval – not automatic – consider criminal record



Republic of Philippines

□ Labor Code of the Philippines

- Only public employment office authorized in terms of the Act is permitted to recruit and place workers



Principle motivations

- ❑ Need to be proactive with preventative measures.
- ❑ Limit the potential for deception.
- ❑ Facilitate access to Information.
- ❑ Not exceed comparable efforts adopted in money laundering.
- ❑ Shift the evidential burden.



Proposals for Regulation

- Palermo Protocol

- Specific suggestions on how to combat human trafficking
- At least: regulation of the recruitment industry



Essential Characteristics:

- ❑ Global approach
- ❑ Regulatory regime for recruitment industry.
- ❑ Registration and Accreditation Center
- ❑ Submit prescribed information to become registered.
- ❑ Provide minimum information to recruited persons. E.g. costs relating to employment.
- ❑ Display accreditation details.
- ❑ Keep records.
- ❑ Records made available to law enforcement agencies.
- ❑ Maintain register of recruitment agencies.
- ❑ Apply those recruiting outside borders of country.
- ❑ Establishment of Recruitment Intelligence Units.

Implementation

- ❑ A regulatory regime for the recruitment industry cannot be successful if it operates in isolation of other efforts aimed at combating human trafficking.
- ❑ The collection, analysis and dissemination of information will play an important role in identifying those agencies that recruit people for purposes of human trafficking.
- ❑ Resources and effort should be invested in preventing the key strategy of recruiting unsuspecting victims of human trafficking.
- ❑ Cooperation from different departments.

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Benefits

- ▣ Proactive approach to recruitment.
- ▣ Access to Information on Recruiters
- ▣ Increased protection for job hunters
- ▣ Curtailing human trafficking



Conclusion

- ❑ *It is not necessarily the most defenseless people who become victims of trafficking. Rather, it is those who are looking for alternatives to their present living conditions. Generally, it is young people with a sense of initiative who do not wish to simply resign themselves to a socio-economic situation that offers them no prospects.*
- ❑ *Often, such people make an error of judgment. This group of people easily fall prey to the promise of an attractive job abroad. Sadly, in many cases prospective migrants are not told what kind of work they are being offered. And even if the nature of the work is made clear to them, they are misled about the remuneration, employment conditions and the nature of work relations.*



Conclusion/...

- ▣ Having a regulatory regime for the recruitment industry is not a guarantee of an effective combating strategy.
- ▣ It can only be effective within a focused effort to combat human trafficking.

